

IMMEDIATE RELEASE

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IN THE SUPREME COURT OF THE STATE OF IDAHO
Docket No. 29136

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,)	Boise, April 2004 Term
)	
v.)	2004 Opinion No. 106
)	
BRIAN J. MALAND,)	Filed: September 1, 2004
)	
Defendant-Appellant,)	Frederick C. Lyon, Clerk
)	

Appeal from the District Court of the First Judicial District, State of Idaho, Kootenai County. Hon. John P. Luster, District Judge; Hon. Benjamin J. Simpson, Magistrate.

The order denying the motion to suppress is reversed.

John M. Adams, Kootenai County Public Defender, Coeur d'Alene, for appellant. John M. Adams argued.

Hon. Lawrence G. Wasden, Attorney General, Boise, for respondent. Kenneth K. Jorgensen argued.

In a unanimous opinion released today and authored by Justice Burdick, the Idaho Supreme Court reversed the district court's decision to deny a motion to suppress.

After receiving a noise complaint from an anonymous caller two police officers went to the defendant's home to investigate. When they arrived the music was not excessively loud. The officers knocked and the defendant answered the door. The officers asked the defendant to produce identification and to disclose whether he owned the home. The defendant responded he had no identification with him, gave a false name, and informed the officers that he was staying at the house whose owner, he said, was out. The defendant tried to end the encounter with the police by closing the door. One of the officers blocked the door by placing her foot between the doorjamb and the door while both officers pushed against the door. As a result of this activity, the defendant relented, came out of the house, revealed his true identity to the officers, and produced his suspended driver's license. The district court denied the defendant's motion

to suppress all evidence obtained before, during and after the “stop,” claiming a violation of his constitutional rights by the unlawful warrantless entry of the officers into his home.

The Idaho Supreme Court holds that police may not make a warrantless, nonconsensual entry into a residence in order to effectuate a *Terry* stop. The Court found that without a warrant or probable cause for a felony and exigent circumstances, the officers insertion of her foot into the doorway constituted an illegal entry. The Idaho Supreme Court reversed the district court’s order denying the defendant’s motion to suppress and remanded the case for further proceedings.